

**§ 1.957 Failure to file a timely, appropriate or complete response or comment in *inter partes* reexamination.**

(a) If the third party requester files an untimely or inappropriate comment, notice of appeal or brief in an *inter partes* reexamination, the paper will be refused consideration.

(b) If no claims are found patentable, and the patent owner fails to file a timely and appropriate response in an *inter partes* reexamination proceeding, the prosecution in the reexamination proceeding will be a terminated prosecution and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.997 in accordance with the last action of the Office.

(c) If claims are found patentable and the patent owner fails to file a timely and appropriate response to any Office action in an *inter partes* reexamination proceeding, further prosecution will be limited to the claims found patentable at the time of the failure to respond, and to any claims added thereafter which do not expand the scope of the claims which were found patentable at that time.

(d) When action by the patent owner is a *bona fide* attempt to respond and to advance the prosecution and is substantially a complete response to the Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, an opportunity to explain and supply the omission may be given.

[65 FR 76777, Dec. 7, 2000, as amended at 72 FR 18906, Apr. 16, 2007]

**§ 1.958 Petition to revive *inter partes* reexamination prosecution terminated for lack of patent owner response.**

If a response by the patent owner is not timely filed in the Office, a petition may be filed pursuant to § 1.137 to revive a reexamination prosecution terminated under § 1.957(b) or limited under § 1.957(c) if the delay in response was unintentional.

[78 FR 62408, Oct. 21, 2013]

**APPEAL TO THE PATENT TRIAL AND APPEAL BOARD IN *Inter Partes* REEXAMINATION****§ 1.959 Appeal in *inter partes* reexamination.**

Appeals to the Patent Trial and Appeal Board under 35 U.S.C. 134(c) are conducted according to part 41 of this title.

[77 FR 46628, Aug. 6, 2012]

**§§ 1.961–1.977 [Reserved]****§ 1.979 Return of Jurisdiction from the Patent Trial and Appeal Board; termination of appeal proceedings.**

(a) Jurisdiction over an *inter partes* reexamination proceeding passes to the examiner after a decision by the Patent Trial and Appeal Board upon transmittal of the file to the examiner, subject to each appellant's right of appeal or other review, for such further action as the condition of the *inter partes* reexamination proceeding may require, to carry into effect the decision of the Patent Trial and Appeal Board.

(b) Upon judgment in the appeal before the Patent Trial and Appeal Board, if no further appeal has been taken (§ 1.983), the prosecution in the *inter partes* reexamination proceeding will be terminated and the Director will issue and publish a certificate under § 1.997 concluding the proceeding. If an appeal to the U.S. Court of Appeals for the Federal Circuit has been filed, that appeal is considered terminated when the mandate is issued by the Court.

[77 FR 46628, Aug. 6, 2012]

**§ 1.981 Reopening after a final decision of the Patent Trial and Appeal Board.**

When a decision by the Patent Trial and Appeal Board on appeal has become final for judicial review, prosecution of the *inter partes* reexamination proceeding will not be reopened or reconsidered by the primary examiner except under the provisions of § 41.77 of this title without the written authority of the Director, and then only for